

AMENDED IN ASSEMBLY APRIL 29, 1998

AMENDED IN ASSEMBLY APRIL 16, 1998

AMENDED IN SENATE JANUARY 5, 1998

SENATE BILL

No. 175

Introduced by Senator Kelley

January 21, 1997

An act to amend Sections ~~32942~~, 33704, 38875, and 39762 of, and to amend the headings of Article 5.5 (commencing with Section 38251), Article 17 (commencing with Section 38522), Article 38 (commencing with Section 38881), and Article 39 (commencing with 38885) of Chapter 5 of, and Article 3 (commencing with Section 39721), Article 4 (commencing with Section 39731), and Article 7 (commencing with Section 39761) of Chapter 9 of, Part 3 of Division 15 of, the Food and Agricultural Code, relating to milk products.

LEGISLATIVE COUNSEL'S DIGEST

SB 175, as amended, Kelley. Dairy products.

(1) ~~Existing law requires that various dairy products conform to, and be labeled in accordance with, regulations of the federal Food and Drug Administration.~~

~~This bill would state the intent of the Legislature to preserve the state's own compositional standards for solids not fat, fat, and total solids in fluid milk, as defined.~~

~~(2) Existing law prohibits lowfat fruit kefir from containing more than 1.2% milk fat.~~

This bill would also prohibit light (lite) fruit kefir from containing more than 1.2% milk fat.

~~(3)–~~

(2) Existing law requires UHT flavored reduced-fat milk to contain not less than 2.1% milk fat.

This bill would require UHT flavored reduced-fat milk to contain not more than 2.1% milk fat.

~~(4)–~~

(3) Because, under existing law, a violation of any provision of the Food and Agricultural Code is a misdemeanor, the bill would impose a state-mandated local program by creating new crimes.

~~(5)–~~

(4) Existing law requires milk products plants to obtain nondairy frozen dessert mix from licensed manufacturers, as specified. Existing law contains a cross-reference to a nonexistent statute.

This bill would remove that cross-reference and make a corresponding change.

~~(6)–~~

(5) Existing law specifies standards for various types of milk including reduced-fat milk, lowfat or light milk, nonfat milk, skim milk, and fat-free milk.

This bill would conform the headings of those provisions with the types of milk specified in those provisions.

~~(7)–~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 32912 of the Food and~~
 2 ~~Agricultural Code is amended to read:~~
 3 ~~32912. (a) Any milk or milk product, frozen dessert,~~
 4 ~~or cheese that is subject to a standard of identity or~~
 5 ~~standard of composition defined in this division may be~~

~~1 specially formulated or processed to lower the content of
2 its milkfat, alter its milkfat composition, or otherwise
3 modify its nutrient profile to conform to a nutrient
4 content claim, as defined by federal regulation, to the
5 extent that it will not comply with the compositional
6 requirements of its standard of identity or composition.
7 These modified foods shall be labeled in accordance with
8 the applicable provisions of Title 21 of the Code of
9 Federal Regulations.~~

~~10 (b) It is the intent of the Legislature to retain the
11 state's existing compositional standards for solids not fat,
12 fat, and total solids in fluid milk. "Fluid milk" includes,
13 but is not limited to, milk, lowfat milk, reduced fat milk,
14 and nonfat milk.~~

~~15 SEC. 2.—~~

~~16 SECTION 1. Section 33704 of the Food and
17 Agricultural Code is amended to read:~~

~~18 33704. (a) Sections 33701, 33731, 33732, 33733, 33734,
19 33767, 33768, 33770, 33771, 33776, and 34593 do not apply
20 to the manufacture of ice cream that is manufactured
21 from ice cream mix, to frozen dairy dessert that is
22 manufactured from frozen dairy dessert mix, to frozen
23 dessert that is manufactured from frozen dessert mix, to
24 frozen yogurt that is manufactured from frozen yogurt
25 mix, or to nondairy frozen dessert that is manufactured
26 from nondairy frozen dessert mix, if those products are
27 manufactured in a freezing device from which those
28 products are served directly in a semifrozen state,
29 without packaging of any type, for consumption on the
30 premises in or from rooms where food is served to the
31 public.~~

~~32 Except for nondairy frozen dessert mix, all mixes so
33 used shall be secured from a licensed manufacturer of
34 milk products.~~

~~35 Ice cream mix, frozen yogurt mix, frozen dairy dessert
36 mix, frozen dessert mix, and nondairy frozen dessert mix
37 shall be manufactured into a semifrozen state without
38 adulteration and freezing device salvage shall not be
39 reused as a mix.~~

1 (b) A limited packaging permit may be issued by the
2 secretary to a semifrozen (soft-serve) milk products plant
3 for on-premises manufacture and packaging of hard
4 frozen dairy products or hard frozen dairy product
5 novelties. The permit may only be issued after the
6 suitability of the facility for manufacture and packaging
7 has been determined by the secretary. An annual onsite
8 evaluation of compliance with the specific permit
9 conditions shall be completed by the secretary prior to
10 renewal of the limited packaging permit. A semifrozen
11 milk products plant issued a limited packaging permit
12 shall meet all of the following standards:

13 (1) The manufacturing and packaging of hard frozen
14 dairy product novelties shall be done when the
15 establishment is closed to the public.

16 (2) The hard frozen products shall only be sold to
17 purchasers for consumption. No hard frozen product
18 manufactured pursuant to the limited packaging permit
19 shall be sold for resale.

20 (3) All frozen dairy product mixes used for the
21 manufacture and packaging of hard frozen dairy product
22 novelties shall be dispensed from single service
23 containers sealed at the licensed milk products plant
24 where processed and pasteurized. Reconstitution of dry
25 mix or condensed mix is prohibited at a semifrozen milk
26 products plant issued a limited packaging permit.

27 (4) Adequate facilities, consistent with recognized
28 good manufacturing practices for the production and
29 packaging of hard frozen dairy products, as determined
30 by the secretary, shall be provided as a condition of the
31 limited packaging permit. The facilities shall include, but
32 are not limited to, adequate utensil and novelty mold
33 washing, sterilization and storage, and sufficient sanitary
34 work area, including handwashing facilities, dedicated to
35 the manufacture and packaging of hard frozen dairy
36 product novelties. Sanitation guidelines consistent with
37 good manufacturing and handling practices for retail
38 food establishments manufacturing and packaging hard
39 frozen dairy products in conformance with Part 110
40 (commencing with Section 110.3) of Title 21 of the Code

1 of Federal Regulations shall be utilized by the secretary
2 as a condition for issuance and renewal of the limited
3 packaging permit.

4 (5) Each individually packaged hard frozen novelty
5 shall be labeled with the name of the product and the
6 name and address of the manufacturer.

7 (c) Nondairy frozen dessert mix shall be obtained
8 from manufacturers licensed pursuant to Sections 38931
9 and 38934. Any dry or condensed mix to be reconstituted
10 into freezable form shall be reconstituted on the premises
11 in containers or equipment that meet the requirements
12 of Sections 33763, 33764, 33765, and 33766. Any water used
13 for reconstitution shall be treated in a manner to ensure
14 a quality equal to potable pasteurized water. Upon
15 reconstitution, the product shall be poured directly into
16 the freezing unit or refrigerated at a temperature not to
17 exceed 45 degrees Fahrenheit, and so maintained until
18 frozen, or both.

19 (d) Where any retail establishment manufactures two
20 or more of the products provided for under this section,
21 each of those products shall be processed in a separate
22 freezing device, and that freezing device shall be clearly
23 identified as to the product being manufactured therein.

24 (e) The secretary may, by agreement with any
25 approved milk inspection service, authorize the service
26 to inspect and enforce requirements of this code
27 applicable to the establishments covered by this section.
28 Any agreement shall provide that the approved
29 inspection service shall collect the applicable license fee
30 for those establishments as provided in Sections 35221 and
31 38933. The fees so collected shall be retained by the
32 approved service to cover its cost of enforcement, but 15
33 percent of the fees collected shall be remitted to the
34 secretary to cover the cost of administration.

35 ~~SEC. 3.—~~

36 *SEC. 2.* The heading of Article 5.5 (commencing with
37 Section 38251) of Chapter 5 of Part 3 of Division 15 of the
38 Food and Agricultural Code is amended to read:
39

1 Article 5.5. Evaporated Reduced-Fat Milk or
2 Condensed Reduced-Fat Milk

3
4 ~~SEC. 4.—~~

5 SEC. 3. The heading of Article 17 (commencing with
6 Section 38522) of Chapter 5 of Part 3 of Division 15 of the
7 Food and Agricultural Code is amended to read:

8
9 Article 17. Milk, Reduced-Fat Milk, Lowfat Milk, or
10 Light Milk, and Nonfat Milk, Skim Milk, or Fat-Free
11 Milk with Lactobacillus Acidophilus Culture Added
12

13 ~~SEC. 5.—~~

14 SEC. 4. Section 38875 of the Food and Agricultural
15 Code is amended to read:

16 38875. Fruit kefir is kefir, reduced-fat kefir, lowfat or
17 light (lite) kefir, or nonfat, skim, or fat-free kefir that
18 contains not less than 8 percent by weight of clean,
19 mature, sound fruit or its equivalent in other forms. The
20 milk fat content of fruit kefir shall be not less than 2.8
21 percent. Lowfat or light (lite) fruit kefir shall contain not
22 more than 1.2 percent milk fat. Reduced-fat kefir shall
23 contain not more than 2 percent of milk fat. Nonfat, skim,
24 or fat-free fruit kefir shall contain a maximum of twenty
25 hundredths of 1 percent milk fat. Harmless coloring may
26 be added to fruit kefir.

27 The milk fat content of fruit kefir made from goat milk
28 shall not be less than 2.0 percent.

29 ~~SEC. 6.—~~

30 SEC. 5. The heading of Article 38 (commencing with
31 Section 38881) of Chapter 5 of Part 3 of Division 15 of the
32 Food and Agricultural Code is amended to read:

33
34 Article 38. Lactose Reduced Milk, Reduced-Fat
35 Lactose Reduced Milk, Lactose Reduced Lowfat or
36 Light Milk, and Lactose Reduced Nonfat, Skim, or
37 Fat-Free Milk
38

39 ~~SEC. 7.—~~

1 *SEC. 6.* The heading of Article 39 (commencing with
2 Section 38885) of Chapter 5 of Part 3 of Division 15 of the
3 Food and Agricultural Code is amended to read:

4
5 Article 39. Fromage Frais or Soft Fresh Cheese

6
7 ~~SEC. 8.—~~

8 *SEC. 7.* The heading of Article 3 (commencing with
9 Section 39721) of Chapter 9 of Part 3 of Division 15 of the
10 Food and Agricultural Code is amended to read:

11
12 Article 3. UHT Reduced-Fat Milk and UHT Lowfat or
13 Light Milk

14
15 ~~SEC. 9.—~~

16 *SEC. 8.* The heading of Article 4 (commencing with
17 Section 39731) of Chapter 9 of Part 3 of Division 15 of the
18 Food and Agricultural Code is amended to read:

19
20 Article 4. UHT Nonfat Milk, Skim Milk, or Fat-Free
21 Milk

22
23 ~~SEC. 10.—~~

24 *SEC. 9.* The heading of Article 7 (commencing with
25 Section 39761) of Chapter 9 of Part 3 of Division 15 of the
26 Food and Agricultural Code is amended to read:

27
28 Article 7. UHT Flavored Reduced-Fat Milk and UHT
29 Flavored Lowfat or Light Milk

30
31 ~~SEC. 11.—~~

32 *SEC. 10.* Section 39762 of the Food and Agricultural
33 Code is amended to read:

34 39762. UHT flavored reduced-fat milk shall contain
35 not more than 2.1 percent milk fat and not less than 8.25
36 percent milk solids-not-fat. UHT flavored lowfat or light
37 (lite) milk shall contain not more than 1.2 percent milk
38 fat and not less than 8.25 percent solids-not-fat.

39 ~~SEC. 12.—~~

1 *SEC. 11.* No reimbursement is required by this act
2 pursuant to Section 6 of Article XIII B of the California
3 Constitution because the only costs that may be incurred
4 by a local agency or school district will be incurred
5 because this act creates a new crime or infraction,
6 eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section
8 17556 of the Government Code, or changes the definition
9 of a crime within the meaning of Section 6 of Article
10 XIII B of the California Constitution.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

